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SUBJECT: KAZAKHSTAN: GOVERNMENT ADVANCES QUESTIONABLE MEDIA REFORM
LEGISLATION

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¶1. (U) Summary: On October 1, Adil Soz and several other media watchdog groups circulated copies of draft amendments to Kazakhstan's law concerning defamation in the media, as well as an open letter to Parliament criticizing the draft. Among other things, the proposed legislation removes imprisonment as a possible punishment for defamation, but leaves other penalties in place, and adds liability for dissemination of true information regarding the private life of a citizen that derogates his honor and dignity. According to Adil Soz, the amendments were drafted by the Ministry of Interior rather than the Ministry of Culture and Information, and are currently awaiting approval by the cabinet and prime minister before they are forwarded to Parliament. End summary.

GOVERNMENT ADVANCES AMENDMENTS TO DEFAMATION LAW

¶2. (U) On October 1, the media watchdog group Adil Soz, the Union of Journalists, the Congress of Journalists, and several other media-related NGOs publicly criticized new draft amendments to Kazakhstan's media law and circulated copies of the proposed legislation. According to the NGOs, the amendments were drafted by the Ministry of Interior, as opposed to the Ministry of Culture and Information, which normally has responsibility for such legislation and has purportedly been working on the issue over the past several months.

¶3. (U) According to the text circulated by the NGOs, the proposed legislation:

-- removes imprisonment as a possible punishment for insulting the dignity and honor of the president, leaving fines or "social or correctional works" as the maximum punishment for a violation;

-- removes separate, harsher penalties for defamation through the mass media in most cases, though journalists could still be prosecuted under the basic defamation provisions;

-- retains liability for defamation through the mass media for cases involving the president;

-- retains liability for libel against judges, jurors, prosecutors, and investigators, though possible prison terms for such violations are reduced;

-- adds liability for dissemination of true information regarding the private life of a citizen that derogates his honor and dignity.

¶4. (U) The text of the draft legislation was accompanied by an unsigned Note of Explanation from Prime Minister Karim Massimov. (Note: Notes of Explanation are typically signed by the prime minister after the cabinet has approved the legislation and is ready to forward it to the parliament. End note.) According to the Note, the draft amendments were prepared pursuant to OSCE recommendations and are intended to advance Kazakhstan's bid to chair the OSCE in ¶2009.

MEDIA WATCHDOGS, OSCE STRONGLY CRITICAL

¶5. (U) The media NGOs said the proposed amendments fall far short of OSCE standards. In their view, the only positive is the removal of imprisonment as criminal punishment for defamation in some cases. However, the law retains various forms of punishment for defamation and leaves journalists vulnerable to punishment for defamation, including serious fines. In addition, the amendments would add a provision punishing the dissemination of true information that concerns the private life of a citizen and derogates his honor and dignity. The media NGOs fear this provision will further chill the freedom of journalists to report information critical of government officials.

¶6. (U) The media NGOs also expressed frustration that Minister of Culture and Information Yermukhamet Yertysbayev has failed to deliver on his frequent promises of new media legislation to increase media freedom, decriminalize libel, and demonopolize the media in Kazakhstan. The NGOs noted that Yertysbayev's previous statements on the issue concerned relatively superficial changes to the law, and that the draft amendments now circulating were even more disappointing than what he had floated in the past. The groups also questioned the motives of the Ministry of Interior's new interest in drafting media law amendments and noted its lack of expertise in this area.

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¶7. (U) On October 9, OSCE Representative on Freedom of the Media Miklos Haraszti sent a letter to Minister of Interior Baurzhan Mukhamedzhanov asking him to withdraw the amendments. In a public statement announcing the letter, Haraszti said that the proposed legislation contravenes Kazakhstan's OSCE commitments on freedom of the media, and noted that his office was still reviewing a draft media law for Kazakhstan that the government submitted in April. Haraszti stated that the new amendments offer substantially less decriminalization than the broader media law draft circulated in April. According to Haraszti, journalists could still be prosecuted for defamation under the new amendments, the amendments still provide special protection for the president, and criticism of some public officials could still be punished with prison sentences.

GOVERNMENT LARGELY SILENT IN RESPONSE TO CRITICISM

¶8. (U) On October 1, the Ministry of Interior spokesman briefly commented on the statement by the media NGOs during his weekly press briefing. He expressed surprise that the NGOs were so critical to legislation, because the police were actually seeking more freedom for reporters. He speculated that the NGOs may have been confused by difficult terms in the legislation. The Government of Kazakhstan, including the usually outspoken Yertysbayev, has otherwise been silent on the proposed legislation.

COMMENT

¶9. (U) Comment. The draft amendments as circulated by the media NGOs are inconsistent with past signals from the government concerning their plans for amending the media law, though the government has not disavowed them and Yertysbayev has been unusually silent on the issue. On their face, the amendments represent very superficial changes to the defamation law, and may actually serve to

restrict free speech by allowing punishment for the dissemination of true information about the private life of individuals. However, it's not clear at this point if the amendments will pass in their current form and whether they constitute the full scope of planned reforms to the media law. Post will continue to monitor the legislation and advocate for changes to the media law that comply with international standards. End comment.

MILAS